

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

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ELAINE CHAO, SECRETARY OF LABOR, \*  
United States Department of Labor, \*  
\*  
Plaintiff, \*  
\* CIVIL ACTION  
v. \* FILE NO. 05-11076 (GAO)  
\*  
\*  
AMBIENCE 401(k) PLAN & TRUST, \*  
\*  
Defendant. \*  
\*\*\*\*\*

SECRETARY OF LABOR'S MOTION TO EXTEND TIME FOR  
COMPLETION OF SERVICE OF PROCESS

The Plaintiff, the Secretary of Labor, United States Department of Labor, moves the Court for an order extending the time for completion of service of process in this matter until sixty (60) days from the date of a Status Conference which the Secretary has requested this day.

As reason therefore, the Secretary believes that the unique matter of the instant case involving an "orphaned" retirement plan subject to ERISA, raises unusual questions of procedure and notice which should be aired before the Court so that this matter can most efficiently and effectively proceed on its merits. Some of these issues include questions regarding whether proposed service by publication should include the identity of the person nominated as replacement trustee so as to obviate a second round of published notification; the wording of any such notice; whether a date certain for response should be included in the notice, and what form of response is proper in the

circumstances.

The Secretary believes that clarification of these technical issues will, in fact, speed the process of returning pension monies to pension plan participants and further will create a useful template for future cases of this kind.

This same motion is being filed with U.S. District Judge Stearns in the case of Secretary of Labor v. Lauriat's Incorporated Retirement Plan & Trust (Case No. 1:05-cv-11075), which is virtually identical substantively and procedurally, so that these same issues can be explored and resolved in that case in a way that promotes consonance of result in both sessions of this Court.

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DATE: September 19, 2005